IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2531 OF 2006

BHALCHANDRA R. DESHPANDE & ANR. ..PETITIONERS

V/S

WESTERN INDIA SALES CORPORATION ..RESPONDENTS

MR. S.V. KOTWAL WITH S.M. MANGAONKAR FOR PETITIONERS.
MR. PRAKASH NAIK I/B S.M. JAIN FOR RESP. NO.1.
MR. Y.S. SHINDE - APP FOR THE STATE.

CORAM: V.M. KANADE, J.

DATE : 14TH SEPTEMBER, 2007.

P.C.

1. Heard learned counsel for the petitioners and learned counsel for the Respondent No. 1 and APP for the State. By this petition the petitioners are challenging the order passed by the learned Metropolitan Magistrate, 7th Court, Dadar, and the Sessions Court, Mumbai.

2. On an application filed by one K.S. Gopalkrishna it was requested that he be allowed to be substituted in place of the original representative of the company and this application was allowed. Being aggrieved by the said order the petitioner preferred Revision Application before the Sessions court. The said Revision

Application also came to be dismissed. The present

Criminal Writ Petition was preferred against both these orders. Learned counsel for the petitioners submitted that when the complaint was filed complainant's representative has neither produced the letter of authorisation authorising him to file complaint on behalf of the company nor he has stated in his verification statement that he was representing the company as its authorised representative. He submitted that thereafter an application was made for substituting the name of Shri Uday Kamath who has initially filed an application and all these applications were pending and no orders were passed. It was submitted that therefore the complaint was liable to be dismissed since it was not filed by an authorised representative of the company. This submission cannot be accepted. I have perused the verification statement of Shri Uday Kamath. In para 4 he has clearly stated that the complaint has been filed on behalf of the company. That being the position it was not necessary to produce the letter of authorisation. In any case this is a curable defect and the said defect can be cured by producing the authorisation from the company. The second submission also cannot be accepted merely because no orders were passed on the application filed by the subsequent representative it cannot be said that the company was not represented in the trial court and order ought to

have been passed under section 256 of the Code of

Criminal Procedure dismissing the complaint. Both the courts have considered these aspects and they have rejected both the submissions made by the learned counsel appearing on behalf of the petitioner herein. In the result this submission is not accepted. The Criminal Writ Petition is accordingly dismissed. However all the other points which are raised by the petitioner are kept open and the trial court shall consider those submissions on merits and in accordance with law.

(V.M. KANADE, J)